

Chapter 102.

Arkansas Earthquake Authority Act.

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23-102-101. Short title.

This chapter shall be known and may be cited as the "Arkansas Earthquake Authority Act".

23-102-102. Legislative findings and intent.

- (a) The threat of or the actual occurrence of a major earthquake poses serious consequences for the State of Arkansas and its citizens. Of particular concern is the magnitude of damage to residential homeowner and farmowner dwellings and whether or not these structures are adequately insured.
- (b) The market for residential earthquake insurance within the State of Arkansas is currently characterized by the following:
 - (1) Potential for unavailability of earthquake insurance coverage or inadequate coverage;
 - (2) Potential lack of capacity and desire of insurers to write residential earthquake coverage due to pressure from rating agencies;
 - (3) Low percentage of Arkansans with earthquake insurance;
 - (4) Lack of awareness on the part of residential homeowners and farmowners regarding the consequences of a major earthquake; and

- (5) Lack of awareness on the part of residential homeowners and farmowners that earthquake is not a covered peril under a basic homeowner or farmowner policy unless affirmatively added by endorsement.
- (c) The General Assembly hereby declares there is a compelling state interest in maintaining a viable and orderly private sector market for residential earthquake insurance in this state. To the extent that private sector insurers are unable to maintain a viable and orderly market for residential earthquake insurance in this state, state actions to maintain such a viable and orderly market are appropriate.

23-102-103. Definitions.

As used in this chapter, the following definitions apply:

- (1) "Authority" means the Arkansas Earthquake Authority;
- (2) "Board" means the governing Board of the Arkansas Earthquake Authority;
- (3) "Commissioner" means the Insurance Commissioner;
- (4) "Event" means an earthquake and all subsequent earthquakes occurring within the following seventy-two-hour period;
- (5) "Insurer" means all property insurers as defined in § 23-62-104 and includes farmers' mutual aid associations and all casualty insurers as defined in § 23-62-105;
- (6) "MAP" means the Market Assistance Program; and
- (7) "Net direct written premium" is the gross amount of premiums received from policies of insurance issued in this state less return premiums and dividends paid or credited to policyholders. The term does not include premiums for indemnity reinsurance accepted from other licensed insurers, and there shall be no deductions for premiums for indemnity reinsurance ceded to other insurers.

23-102-104. Establishment of the Arkansas Earthquake Authority.

- (a) There is hereby created a nonprofit legal entity to be known as the Arkansas Earthquake Authority. The authority shall operate subject to the supervision and control of the Board of the Arkansas Earthquake Authority. The authority is created as a political subdivision, instrumentality, and body politic of the State of Arkansas and, as such, is not a state agency.
- (b) The authority shall be exempt from all state, county, and local taxes, including insurance premium taxes, the Arkansas Purchasing Law, § 19-11-201 et seq., and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., except to the extent defined in this chapter.

23-102-105. Governing board.

- (a) The Arkansas Earthquake Authority shall operate subject to the supervision and control of the Board of the Arkansas Earthquake Authority. There shall be a governing board of seven (7) members to be appointed by the Insurance Commissioner, which shall meet at least annually to review and prescribe operating rules. The commissioner shall apportion the number of positions into three (3) classes which shall consist of the following members:

- (1) Three (3) members shall be representatives of foreign insurance companies;
 - (2) Two (2) members shall be representatives of domestic insurance companies;
 - (3) One (1) member shall be a licensed insurance agent; and
 - (4) One (1) member shall be a consumer.
- (b) The commissioner shall appoint members by class of one-year, two-year, and three-year terms. Thereafter, at each annual meeting, members appointed to succeed those whose terms expire shall be appointed to three-year terms.
 - (c) The board shall elect one (1) of its members as chairman.
 - (d) Any vacancy in the board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.
 - (e) Members of the board may be reimbursed from moneys of the authority for actual and necessary expenses incurred by them to attend board meetings, but shall not otherwise be compensated for their services.

23-102-106. Immunity and limitations on liability.

There is no liability on the part of and no cause of action of any nature may arise against any participating insurer, the Arkansas Earthquake Authority's agents or employees, the governing Board of the Arkansas Earthquake Authority, or the Insurance Commissioner or his representatives for any act or omission in the performance of their powers and duties under this chapter.

23-102-107. Plan of operation - Suspension of operation - Dissolution.

- (a) The Board of the Arkansas Earthquake Authority shall adopt a plan of operation pursuant to this chapter and shall submit to the Insurance Commissioner for approval such plan of operation, including the Arkansas Earthquake Authority's bylaws and operating rules and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the authority. The plan of operation shall become effective upon approval in writing by the commissioner. If the board fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the governing board or at any time thereafter fails to submit suitable amendments to the plan of operation, the commissioner shall adopt and promulgate such rules as are necessary or advisable to effectuate the provisions of this section. Such rules shall continue in force until modified by the commissioner or superseded by a plan of operation submitted by the board and approved by the commissioner.
- (b) The plan of operation shall:
 - (1) Establish procedures for operation of the authority;
 - (2) Create a fund under the management of the board to pay administrative costs, claims, and other expenses of the authority;
 - (3) Develop and implement a Market Assistance Program to assist insureds in procuring residential earthquake coverage in the voluntary market;
 - (4) Develop and implement a program to publicize the existence of the Market Assistance Program and the authority, the eligibility requirements, and procedures for enrollment, and to maintain public awareness of the Market Assistance Program and the authority;

- (5) Establish procedures for the handling, accounting, and auditing of assets, moneys, and claims of the authority and the executive director or plan administrator;
 - (6) Establish procedures for selecting either an executive director or a plan administrator in accordance with § 23-102-111;
 - (7) Establish procedures for issuance of policies;
 - (8) Establish procedures under which applicants and participants may have written grievances reviewed by a grievance committee appointed by the board. The grievances shall be reported to the board after completion of the review. The board shall retain all written complaints regarding the plan for at least three (3) years;
 - (9) Establish procedures to conduct necessary analyses at reasonable intervals to appropriately evaluate the Arkansas earthquake insurance market;
 - (10) Establish procedures and guidelines to prevent a company from transferring and causing to be transferred substantially all of its earthquake exposure to the authority, unless the commissioner finds after notice and hearing that it is in the best interests of Arkansas citizens to allow such a practice; and
 - (11) Provide for other matters as may be necessary and proper for the execution of the board's powers, duties, and obligations under this chapter.
- (c) If the board finds after investigation conducted pursuant to § 23-102-107(b)(9) that there is sufficient availability and competition in the marketplace, the board shall request that the commissioner hold a public hearing to determine if it is in the best interest of Arkansas citizens to suspend operation of or dissolve the Market Assistance Program or the authority. If after the hearing the commissioner determines that there is sufficient availability and competition in the voluntary earthquake market and it is in the best interest of Arkansas citizens, the commissioner may:
- (1) Suspend operations of the Market Assistance Program or the authority;
 - (2) Suspend policy issuance by the authority or any other operational component of the Market Assistance Program or the authority; or
 - (3) Dissolve the Market Assistance Program or the authority.

23-102-108. Powers.

- (a) The Board of the Arkansas Earthquake Authority shall have the general powers and authority granted under the laws of the State of Arkansas and in addition thereto, the specific authority to:
- (1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter;
 - (2) Assess insurers pursuant to § 23-102-112 regarding funding of the Arkansas Earthquake Authority;
 - (3) Set an appropriate policyholder surcharge for insurers entering the residential homeowner, farmowner, fire and allied lines, and earthquake markets after an event. This surcharge shall be remitted to the authority based on these insurers not having paid the post-event assessments contained in § 23-102-112. The board shall determine the period of time during which this surcharge shall be applicable;
 - (4) Sue or be sued, including taking any legal actions necessary or proper;

- (5) Take such legal action as necessary, including, but not limited to:
 - (A) Avoiding the payment of improper claims against the authority or the coverage provided by or through the authority;
 - (B) Recovering any amounts erroneously or improperly paid by the authority;
 - (C) Recovering any amounts paid by the authority as a result of mistake of fact or law;
 - (D) Recovering other amounts due the authority; or
 - (E) Coordinating legal action with the Insurance Commissioner to enforce the provisions of this chapter;
- (6) Establish and modify from time to time as appropriate the rates, rate schedules, expense allowances, agent fees, deductibles, and any other actuarial function appropriate to the operation of the authority;
- (7) Issue policies of residential earthquake insurance or reinsurance in accordance with the requirements of this chapter. All policy forms shall be subject to the approval of the commissioner;
- (8) Authorize the executive director or plan administrator to prepare and distribute instruction and application forms to agents and to the general public;
- (9)(A) Borrow money and issue or contract with another state authority, including the Arkansas Development Finance Authority, to be issued on its behalf negotiable evidences of debt, including bonds payable from and secured by a pledge of the authority of all or any part of the revenues of the authority to finance the activities authorized by this chapter and sell those bonds at public or private sale in the form and on those terms and conditions as approved by the board.
- (B) Proceeds of bonds and the revenues pledged to secure or pay bonds shall be cash funds and shall not be deposited in the State Treasury.
- (C) Bonds shall be special obligations of the Arkansas Earthquake Authority, secured solely by and payable from the revenues of the authority. The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. In the discretion of the board and subject to approval by the commissioner, the Arkansas Development Finance Authority shall be authorized and empowered to issue negotiable evidences of debt on behalf of the Arkansas Earthquake Authority for the purposes of providing financing as set forth in subdivision (a)(9) of this section and for all other purposes consistent with and in furtherance of this chapter.
- (D) The term of the bonds may not exceed thirty (30) years. In addition, bonds may be issued for the purpose of refunding any bonds issued under this chapter.
- (E) Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, trust companies, executors, administrators, trustees, and other fiduciaries. The bonds are securities that may legally be deposited with and received by any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

- (F) The state hereby pledges to and agrees with the holders of bonds that the state will not limit, alter, or restrict the rights hereby vested in the authority to fulfill each pledge of revenues and any other terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights or remedies of the holders of the bonds.
- (G) Bonds issued by the authority and the interest thereon shall at all times be exempt from all state, county, and municipal taxes. This exemption shall include income, inheritance, and estate taxes;
- (10) Pledge, assign, and grant a security interest in any of the assessments authorized by this chapter or other assets of the authority in order to secure any notes, bonds, or other evidences of indebtedness of the authority;
- (11) Enter into one (1) or more credit facilities, including, but not limited to, lines of credit, permitting the authority to draw amounts as approved by the board, with payment, interest rate, indemnity, compensation, security, default, remedy, and other terms and conditions as approved by the board. All drawings under these credit facilities shall be available to finance the activities authorized by this chapter; and
- (12) Purchase reinsurance, hedge, securitize, or otherwise mitigate the risks insured or reinsured by the authority by entering into such commitments and undertakings and exercising such powers as may be appropriate to accomplish the financings contemplated in this section and thereby carry out the purposes of this chapter.
- (b) In addition to the other powers granted by the Arkansas Insurance Code, § 23-60-101 et seq., the commissioner, after notice and hearing in accordance with the provisions of the Arkansas Insurance Code, § 23-60-101 et seq., may impose a monetary penalty upon any insurer or suspend or revoke the certificate of authority to transact insurance in the State of Arkansas of any insurer who fails to pay an assessment or otherwise file any report or furnish information required to be filed with the board pursuant to the board's direction that the board believes to be necessary in order for the board to perform its duties under this chapter.

23-102-109. Market Assistance Program. [Effective until July 1, 2002 - provisional date.]

- (a) The Board of the Arkansas Earthquake Authority shall develop and implement a Market Assistance Program to assist insureds in procuring residential earthquake coverage in the voluntary market. This shall be accomplished by providing those seeking residential earthquake coverage with a list of insurers participating in the program.
- (b) Insurers may participate in the program only after approval by the board. The board shall establish criteria which must be met by each program applicant for approval, including, but not limited to, the following minimum requirements:
 - (1) All applicants for earthquake coverage which have underlying homeowner, farmowner, or dwelling fire insurance coverage, or meet other criteria as determined by the board and approved by the Insurance Commissioner, shall be accepted;
 - (2) Residential earthquake coverage must be offered as monoline coverage;

- (3) The insurer-applicant is in sound financial condition; and
- (4) The insurer-applicant has retained or contracted with appropriate skilled personnel to service insureds.
- (c) By rule and regulation, the commissioner may restructure the program criteria set forth in subsection (b) of this section or any other component of the program if the commissioner finds that the program is not substantially accomplishing its objective of assisting residential insureds in procuring earthquake coverage in the voluntary market and that the restructuring will be in the best interests of Arkansas citizens.
- (d) Program insurers shall give ninety (90) days' notice in writing to the board and the commissioner of their withdrawal from the program.
- (e) Notwithstanding any provision in § 23-64-201 et seq. regarding agent appointments, all licensed property and casualty agents shall be authorized to access and place coverage through a program insurer.

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 - (2) Residential earthquake coverage must be offered as monoline coverage;
 - (3) The insurer-applicant is in sound financial condition; and
 - (4) The insurer-applicant has retained or contracted with appropriate skilled personnel to service insureds.
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- (d) Program insurers shall give ninety (90) days' notice in writing to the board and the commissioner of their withdrawal from the program.
- (e) Notwithstanding any provision in § 23-64-514 regarding agent appointments, all licensed property and casualty agents shall be authorized to access and place coverage through a Market Assistance Program insurer.

23-102-110. Coverages accessible through the Arkansas Earthquake Authority.

- (a) As long as the Market Assistance Program has at least one (1) approved insurer, no

residential earthquake coverage shall be issued by the Arkansas Earthquake Authority, except as provided in subsection (b) of this section.

- (b) If there are no approved insurers in the program or if after notice and hearing, the Board of the Arkansas Earthquake Authority or the Insurance Commissioner finds that the program rates substantially exceed rates that could be offered by the authority, and the board or commissioner finds after a hearing that it is in the best interests of Arkansas citizens to issue coverage directly through the authority, and with the concurrence of the House and Senate Insurance and Commerce Committees, if the General Assembly is in session, or the concurrence of the House and Senate Interim Committees on Insurance and Commerce, if the General Assembly is not in session, the board shall proceed to offer coverage through the authority to potential insureds.

23-102-111. Administration of the Arkansas Earthquake Authority.

- (a) The Board of the Arkansas Earthquake Authority may either appoint an executive director or may select a plan administrator. If an executive director is chosen, he shall hire all staff necessary to enable him to discharge the duties imposed under this chapter and as may be authorized by law. If a plan administrator is chosen, the board may utilize a competitive bidding process to evaluate applicants and bids submitted under this section, based upon criteria established by the board which shall include, but not be limited to, the following:
 - (1) An estimate of total charges for administering the plan;
 - (2) The financial condition and stability of the plan administrator; and
 - (3) The technical expertise and qualifications of personnel.
- (b) The plan administrator shall serve for a period of three (3) years subject to removal for cause and subject to the terms, conditions, and limitations of the contract between the board and the plan administrator. The board may advertise for and accept bids to serve as the plan administrator for the succeeding three-year periods.
- (c) The executive director or plan administrator shall perform functions related to the plan as may be assigned to it including:
 - (1) Determination of eligibility for coverage under the Market Assistance Program or Arkansas Earthquake Authority;
 - (2) Payment and processing of claims;
 - (3) Establishment of a premium billing procedure for collection of premiums. Billings shall be made on a periodic basis as determined by the board;
 - (4) Other necessary functions to assure timely payment of benefits to covered persons under the plan, including:
 - (A) Making available information relating to the proper manner of submitting a claim for benefits under the plan and distributing forms upon which submissions shall be made; and
 - (B) Evaluating the eligibility of each claim for payment under the plan; and
 - (5) Conduct necessary analyses at reasonable intervals to appropriately evaluate the Arkansas earthquake insurance market and take action necessary to accomplish the purposes of this chapter.

- (d) The executive director or plan administrator shall submit regular reports to the board regarding the operation of the plan. Frequency, content, and form of the report shall be determined by the board.
- (e) The executive director or plan administrator shall pay claim expenses from the premium payments or other income received from or on behalf of plan participants and allocated by the board for claim expenses. If the total amount available at any time to the authority is insufficient to make all necessary claims payments, the moneys available shall be prorated and the unpaid portion shall be paid as soon thereafter as moneys become available.
- (f) The executive director or plan administrator shall be governed by the requirements of this chapter.
- (g) The plan administrator shall be compensated as provided in the contract between the board and the plan administrator.

23-102-112. Funding.

(a) Rates.

- (1) The Arkansas Earthquake Authority shall establish rates for plan coverage. These rates and rating schedules may be adjusted for appropriate factors such as geographical variation in claim costs, retrofitting, and other mitigation efforts and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices.
- (2) The rates charged by the authority shall not compete with voluntary market rates so that the authority functions as a residual market mechanism to provide insurance when insurance cannot be procured in the voluntary market. Rates and schedules shall be submitted to the Insurance Commissioner for approval prior to use.

(b) Initial Assessment. Initial operating capital shall be contributed based on the following:

- (1) All authorized insurers reporting one million dollars (\$1,000,000) or more in premium on their most recent annual statement shall pay a maximum initial assessment of up to one thousand dollars (\$1,000) plus twenty-five thousandths of one percent (.025%) of their net direct written premium in the State of Arkansas as reported in their most recent annual statement. This assessment may be collected in incremental amounts or as one (1) single assessment; and
- (2) All authorized insurers reporting less than one million dollars (\$1,000,000) in premium on their most recent annual statement shall pay a maximum initial assessment of up to five hundred dollars (\$500), plus twenty-five thousandths of one percent (.025%) of their net direct written premium in the State of Arkansas as reported in their most recent annual statement. This assessment may be collected in incremental amounts or as one (1) single assessment.

(c) Administrative Assessments.

- (1) Insurers shall contribute additional assessments as may be reasonable and necessary to meet the authority's annual projected administrative expenses. For the purposes of this section, administrative expenses shall include all reasonable and necessary operating expenses incurred or to be incurred by the authority and

may be up to, but not exceeding, an aggregate total of one million dollars (\$1,000,000) for all authorized insurers identified in subdivision (c)(2) of this section.

- (2) These assessments shall be made as the actual need for additional administrative funds arises to ensure that the authority incurs no deficit spending. Assessments shall be apportioned by the Board of the Arkansas Earthquake Authority among authorized insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, in proportion to the ratio that the total net direct written premium collected in the State of Arkansas by the insurer on its homeowner, farmowner, fire and allied lines during the preceding calendar year bears to the total net direct written premium collected by all insurers on their homeowner, farmowner, fire and allied lines in the State of Arkansas for the preceding calendar year. Each insurer's assessment shall be determined by the board based on annual statements and other reports deemed necessary by the board and filed by the insurer with the board or the commissioner.
- (3) An insurer may petition the commissioner for an abatement or deferment of all or part of an assessment imposed by the authority. The commissioner may abate or defer, in whole or in part, such assessment if, in the opinion of the commissioner, payment of the assessment would cause the insurer to be deemed in hazardous financial condition, as defined in § 23-68-102(14). In the event an assessment against an insurer is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred shall be assessed against the other insurers in a manner consistent with the basis for assessments set forth in subsection (a) of this section. The insurer receiving such abatement or deferment shall remain liable to the plan for the deficiency for four (4) years.
- (4) Insurers determined to be insolvent insurers by a court of competent jurisdiction shall be exempt from assessment from and after the date of that determination and until the commissioner determines that the insurer is no longer an insolvent insurer.
- (5) All assessments shall be due and payable upon receipt and shall be delinquent if not paid within thirty (30) days of the receipt of the notice by the insurer. Failure to timely pay the assessment will automatically subject the insurer to a ten percent (10%) penalty, which will be due and payable within the next thirty-day period. The board and the commissioner shall have the authority to enforce the collection of the assessment and penalty in accordance with the provisions of this chapter and the Arkansas Insurance Code, § 23-60-101 et seq. The board may waive the penalty authorized by this subsection if it determines that compelling circumstances exist which justify such waiver.

(d) Post-event Assessments.

- (1) If loss from an event occurs, the authority, in addition to any assessments in subsections (a) and (b) of this section, shall assess all authorized insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, as may be necessary to produce the additional funds needed to make payment of all covered claims and expenses of the authority.
- (2) Assessments during a calendar year may be made up to but not in excess of five percent (5%) of each insurer's net direct homeowner, farmowner, fire and allied

lines, excluding commercial policies and crop hail, written premium in the State of Arkansas for the preceding calendar year.

- (3) Insurers shall recover the post-event assessment through a surcharge on homeowner, farmowner, fire and allied lines policyholder, excluding crop hail policyholders, equal to the percentage identified by the board for the insurers' post-event assessment. This surcharge shall be exempt from insurance premium taxes.
 - (4) Pursuant to § 23-102-108, the board shall establish surcharge policies and guidelines for insurers entering the residential homeowner, farmowner, fire and allied lines and earthquake markets, excluding commercial policies and crop hail, after an event to ensure a fair and competitive market.
 - (5) If the maximum assessment in any calendar year does not provide an amount sufficient for payment of covered claims, the moneys available shall be prorated with the unpaid portion being paid as soon thereafter as moneys become available, with assessments being made in the next and successive calendar years. However, in no event shall the total assessment exceed two hundred fifty million dollars (\$250,000,000) in the aggregate, regardless of the frequency or severity of earthquake losses at any and all times subsequent to the creation of the authority.
 - (6) The authority may exempt or defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer to be deemed in hazardous financial condition, as defined in § 23-68-102(14).
 - (7) Insurers determined to be insolvent insurers by a court of competent jurisdiction shall be exempt from assessment from and after the date of that determination and until the commissioner determines that the insurer is no longer an insolvent insurer.
 - (8) It shall be the duty of each insurer to pay the amount of its assessment to the authority within thirty (30) days after it gives notice of the assessment.
- (e) **Failure to Pay Assessments.**
- (1) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in this state of any insurer who fails to pay an assessment when due.
 - (2) As an alternative, the commissioner may levy a fine on any insurer which fails to pay an assessment when due. The fine shall not exceed one thousand dollars (\$1,000) per day and shall be payable to the authority for use in its operations.
 - (3) In addition, assessments may be collected by the authority through suits brought for that purpose. Venue for suits shall lie in Pulaski County, Arkansas, and the authority shall not be required to give an appeal bond in any cause arising hereunder.
 - (4) Any insurer whose certificate of authority to do business in this state is cancelled or surrendered shall be liable for any unpaid assessments made prior to the date of such cancellation or surrender.

23-102-113. Policy standards.

- (a) The Arkansas Earthquake Authority shall offer a residential earthquake policy with dwelling coverage in amounts up to one hundred thousand dollars (\$100,000).

- (b) Coverage for personal property and additional living expenses shall be provided as determined by the Board of the Arkansas Earthquake Authority in the plan of operation.
- (c) The applicable deductible for this coverage shall be determined by the board in the plan of operation.

23-102-114. Notice and declination.

(a) Existing Policyholders.

- (1) Insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, shall notify policyholders who do not maintain residential earthquake insurance or who maintain residential earthquake insurance at amounts less than one hundred percent (100%) of the insured value of the dwelling, of their potential eligibility for residential earthquake insurance through the Market Assistance Program or Arkansas Earthquake Authority. Such notice shall be on a form adopted by the Board of the Arkansas Earthquake Authority and approved by the Insurance Commissioner, and insurers shall verify to the board compliance with this provision. This notice shall be provided at such intervals and frequency to be determined by the board, but notice shall be given at a minimum of three (3) different times over a four-year interval.
- (2) This notice from insurers shall not be deemed to provide earthquake coverage to existing policyholders who do not maintain a policy of residential earthquake insurance, nor shall the notice be deemed to increase the amounts of earthquake insurance for those policyholders who maintain coverage at less than one hundred percent (100%) of the insured value of the dwelling.

- (b) **New Policyholders.** Insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, shall advise new applicants for these types of coverage of the availability of residential earthquake insurance through the Market Assistance Program or the authority, if coverage is unavailable from the insurer. If an applicant chooses not to purchase residential earthquake coverage through an insurer, including Market Assistance Program participants or the authority, the applicant shall reject this coverage in writing on the application or any addendum thereto. Insurers shall maintain the application containing the rejection as part of their files.

23-102-115. Appeal.

Any applicant for a policy, any persons insured under the Market Assistance Program or the Arkansas Earthquake Authority, and any agency or insurer affected by the program or authority may appeal to the Insurance Commissioner any ruling or decision of the governing Board of the Arkansas Earthquake Authority, and the commissioner may consider the appeal under a de novo standard of review.

23-102-116. Rules and regulations.

The Insurance Commissioner is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this chapter.

23-102-117. Federal or multistate catastrophic funds.

In the event a federal or multistate catastrophic insurance or reinsurance program intended to serve purposes similar to the purposes of the Market Assistance Program or the Arkansas Earthquake Authority is created, the Board of the Arkansas Earthquake Authority shall promptly take appropriate actions to coordinate with the federal or multistate program to the extent consistent with this chapter and if such actions are in the best interest of Arkansas citizens. The board shall also make recommendations to the General Assembly for coordination with the federal or multistate program or for termination of the program or the authority, if it is in the best interest of Arkansas citizens, or take such other actions as the board finds appropriate.

23-102-118. Exemption from Arkansas Property and Casualty Insurance Guaranty Act.

Notwithstanding any other provision of law to the contrary, neither the Arkansas Earthquake Authority nor its policyholders shall be subject to the provisions of or be eligible for the benefits provided by the Arkansas Property and Casualty Insurance Guaranty Act, § 23-90-101 et seq.

23-102-119. Termination of the Arkansas Earthquake Authority.

Upon termination of the Arkansas Earthquake Authority by the General Assembly or the Insurance Commissioner, its remaining funds shall be transferred to the State Insurance Department Trust Fund, unless otherwise directed by the General Assembly.